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7 Attorney for Plaintiff
8 PAUL SAPAN

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SOUTHERN DIVISION**

12 PAUL SAPAN,

13 Plaintiff,

14 vs.

15 ASSURITY LAW GROUP, INC., a
16 California Corporation, SCOTT
17 MCDONALD, an individual,

18 Defendants.
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20
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Case No.:

**COMPLAINT FOR DAMAGES,
INCLUDING PUNITIVE
DAMAGES, INTEREST AND
ATTORNEY'S FEES, AND
FOR INJUNCTIVE RELIEF**

**Violation(s) of Telephone
Consumer
Protection Act of 1991
Trespass to Chattel
Unfair Business Practices**

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23
24 COMES NOW Plaintiff PAUL SAPAN (hereinafter referred to as
25 "Plaintiff") who alleges as follows:

26 ///

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JURISDICTIONAL ALLEGATIONS

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2 1. Plaintiff is, and at all times herein mentioned was, a resident of the
3 County of Los Angeles, but has recently moved to the county of Orange, State of
4 California.
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6 2. Defendant ASSURITY LAW GROUP, INC. (Assurity Law Group) is,
7 and at all times herein mentioned was, a California corporation, doing business in
8 the County of Los Angeles, State of California.
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10 3. Defendant SCOTT MCDONALD is, and at all times herein
11 mentioned was, doing business in the County of Los Angeles, State of California.
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13 4. This case is filed pursuant to the Telephone Consumer Protection Act
14 of 1991, 47 U.S.C. §227 et. seq. The U.S. Supreme Court recently decided that
15 federal courts have federal question subject matter jurisdiction over such civil
16 actions under 28 U.S.C. §§ 1331 and 1441. *Mims v. Arrow Fin. Services, LLC*, --
17 U.S. --, 132 S.Ct. 740, 753 (2012). The state law claim herein arises out of a
18 common nucleus of operative facts and is subject to supplemental jurisdiction
19 pursuant to 28 U.S.C. § 1367.
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22 5. At all times herein mentioned each defendant was the partner, agent
23 and employee of each co-defendant herein and was at all times acting within the
24 scope of such partnership, agency and employment and each defendant ratified the
25 conduct of each co-defendant herein.
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FACTUAL SUMMARY

6. Defendants made three (3) live calls to PAUL SAPAN's home phone number (310-444-1999) wherein they tried to pitch debt modification services on the following dates and times and using the following Caller ID ("CID") numbers and Caller ID name (CID):

- April 19, 2012 at 3:09 pm, CID 657-210-3011
- June 25, 2012 at 8:35 am, CID 657-210-3011
- July 27, 2012 at 2:49 pm, CID 949-988-2014

7. Mr. Sapan's home phone has been listed on the federal "Do Not Call" registry maintained by the Federal Trade Commission from December 23, 2007 to the present.

8. While each of the calls complained of above used the Caller ID number, they did not transmit Caller ID name information as required by law. 47 C.F.R. § 64.1601(e).

9. Defendants called Mr. Sapan three (3) separate occasions where they attempted to pitch Mr. Sapan debt modification services.

10. In all three (3) calls, Defendants identified themselves as ASSURITY LAW GROUP.

11. Corporatewiki.com lists Defendant SCOTT MCDONALD as President of Defendant ASSURITY LAW GROUP.

1 12. Defendant SCOTT MCDONALD is, and at all times herein
2 mentioned was, the owner of Defendant ASSURITY LAW GROUP.

3 13. Plaintiff alleges on information and belief that Defendant SCOTT
4 MCDONALD made the violative calls, ordered them made, knew the calls
5 described above were being made and did nothing, or was willfully and recklessly
6 ignorant of the fact his company was making the calls described above.
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8

9 14. Mr. Sapan has been harmed by the junk calls complained of herein by
10 the direct waste of his time during the calls themselves, the indirect waste of time
11 in having to break from other important tasks and spend time catching up after
12 these junk calls, the waste of telephone service which he and not Defendants must
13 pay for, the costs of having to pursue legal remedies, and in the aggravation and
14 consequent health effects of stress these illegal intrusions have caused.
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19 **FIRST CAUSE OF ACTION**

20 [Violation of Telephone Consumer Protection Act of 1991- For all three (3) calls]

21 15. Plaintiff realleges all paragraphs above and incorporates them herein
22 by reference.
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24 16. Plaintiff is bringing this action pursuant to the provisions of the
25 Telephone Consumer Protection Act of 1991 (47 U.S.C. §227 and 47 C.F.R.
26 §64.1200 – “TCPA”).
27

28 17. Subdivision (c) (2) of Section 64.1200 of Title 47 of the Code of

1 Federal Regulations makes it unlawful for any person to “initiate any telephone
2 solicitation” to “A residential telephone subscriber who has registered his or her
3 telephone number on the national do-not-call registry of persons who do not wish
4 to receive telephone solicitations”.

6 18. At all times relevant to this complaint, Plaintiff had registered his
7 residential telephone number on the national do-not-call registry maintained by the
8 U.S. Government.

10 19. Defendants have called Plaintiff’s residential telephone line for
11 solicitation purposes during the statutory period of the last 4 years, pursuant to 28
12 U.S.C. § 1658. These calls are the only calls known to Plaintiff at this time and
13 Plaintiff states on information and belief, without yet having the aid of full
14 discovery, that it is quite likely that Defendant has made many more violative calls
15 to Plaintiff’s residential telephone line. These calls were not made in error, nor did
16 Defendant have express permission from Plaintiff to call, nor did Defendant have a
17 personal relationship with Plaintiff. 37 C.F.R. § 64.1200 (c) (i), (ii), & (iii).

21 20. Subdivision (c)(5) of section 227 of title 47 of the United States Code
22 permits a private right of action in state court for violations the national do-not-call
23 registry rules promulgated thereunder. Plaintiff may obtain relief in the form of
24 injunctive relief, or Plaintiff may recover \$500.00 for each violation, or both. If
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1 the court finds that defendants' violations were willful or knowing, it may, in its
2 discretion, award up to three times that amount.

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5 **SECOND CAUSE OF ACTION**

6 [Trespass to Chattel- For all three (3) calls]

7 21. Plaintiff realleges all paragraphs above and incorporates them herein
8 by reference.

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10 22. The conduct by defendants complained of herein, namely illegally
11 calling Plaintiff's phone, constitutes an electronic trespass to chattel.

12 23. At no time did Plaintiff consent to this trespass.

13
14 24. As a proximate result of these intrusions, Plaintiff suffered damage in
15 an amount according to proof, but no less than 2% of his monthly phone bills in
16 June of 2012 since Defendants calls constituted 2% or more of the total calls to his
17 phone at the height of their junk calling campaign.

18
19 25. In making the illegal calls described above, defendants were guilty of
20 oppression and malice, in that defendants made said calls with the intent to vex,
21 injure, or annoy Plaintiff or with a willful and conscious disregard of Plaintiff's
22 rights. Plaintiff therefore seeks an award of punitive damages.
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26 **THIRD CAUSE OF ACTION**

27 [Engaging in Unfair Business Practices- For all three (3) calls]
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1 26. Plaintiff realleges all paragraphs above and incorporates them herein
2 by reference.

3 27. Because these telephone calls violate federal statutes, they are
4 unlawful business practices within the meaning of section 17200 of the Business
5 and Professions Code.
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7 28. As a proximate result of these intrusions, Plaintiff suffered damage in
8 an amount according to proof, but no less than 2% of his monthly phone bills in
9 June of 2012 since Defendants calls constituted 2% or more of the total calls to his
10 phone in the two months at the height of their junk calling campaign.
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12 29. Section 17203 of the Business and Professions Code entitles Plaintiff
13 to an injunction enjoining defendants from engaging in unfair or unlawful business
14 practices.
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17 WHEREFORE Plaintiff prays for judgment against defendants, and each of
18 them, as follows:
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21 On the FIRST CAUSE OF ACTION:

- 22 1. For an award of \$500.00 for each violation of 47 C.F.R. §64.1200 (c)
23 (2);
24 2. For an award of \$1,500.00 for each such violation found to have been
25 willful;
26

27 On the SECOND CAUSE OF ACTION:

- 28 3. For compensatory damages according to proof;

1 4. For punitive damages;

2 On the THIRD CAUSE OF ACTION:

3 5. For preliminary and permanent injunctions, enjoining Defendants, and
4 each of them, from engaging in unfair or unlawful business practices
5 pursuant to section 17203 of the Business and Professions Code;

6 On ALL CAUSES OF ACTION:

7 6. For attorney's fees pursuant to California Code of Civil Procedure §
8 1021.5.

9 7. For costs of suit herein incurred; and

10 8. For such further relief as the Court deems proper.
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13 DATED: March 14, 2016

PRATO & REICHMAN, APC

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15
16 /s/Christopher J. Reichman, Esq.
17 By: Christopher J. Reichman, Esq.
18 **Prato & Reichman, APC**
19 Attorneys for Plaintiff
20 PAUL SAPAN
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